

M/L- 475
18/08/2025
Court No.6
Aritra

C.O. 123 of 2025

**Nirmal Kumar Dutta
Vs.
Sandhya Dutta & Ors.**

Mr. Tarak Nath Halder
Mr. Sayan Mukherjee

....for the petitioner

Mr. Kamlesh Jha

....for the opposite party

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order being No.45 dated December 18, 2024 passed by the learned Civil Judge (Jr. Div.), 1st Court at Sealdah in Title Suit No.148 of 2017.

By the order impugned, the prayer for mandatory injunction was allowed with the condition that the plaintiff shall not be allowed to enter into the pump room but he will provide the necessary monetary funding needed for the repairs of the pump.

Mr. Halder, learned advocate appearing for the petitioner submits that the pump is lying in defunct condition. He further submits that the petitioner is residing in the 2nd floor of the building in question and it is difficult for the petitioner to carry the water from the underground reservoir to the 2nd floor flat of the petitioner. He submits that the learned trial judge only allowed the petitioner to provide the necessary funds for the repairing but did not allow the petitioner to enter into

the pump room. Mr. Halder further submits that since the pump is an old pump it may be difficult to repair the same and make it functional. He submits that the petitioner be permitted to install a new pump in place of the old pump.

Mr. Jha, learned advocate appearing for the opposite party submits that the opposite party is in exclusive possession of the pump room. He submits that the petitioner herein does not have any manner of right in respect of the pump room. He further submits that the pump is lying in a defunct condition for more than 10 years. Mr. Jha further submits that in case the old pump is made functional or the petitioner is allowed to install a new pump, the water supply to the other portions of the property should not be affected.

The learned advocate for the petitioner submits that the petitioner and the opposite party are the co-owners of the property including the pump room as would be evident from the averments made in the additional written statement. He submits that the pump is lying in a defunct state only from December, 2022 and immediately thereafter he filed an application for mandatory injunction.

Heard the learned advocates for the respective parties and perused the materials placed.

It is not in dispute that the pump is not in a functional state. Mr. Halder would contend that the

pump is not functioning from 2022 whereas Mr. Jha submits that the same is not functioning for more than 10 years.

This Court is, therefore, of the considered view instead of repairing the old pump the petitioner may be permitted to install a new pump in the existing pump room at his own cost.

After hearing the learned advocates for the respective parties it appears to this Court that there are serious disputes between the parties with regard to supply of water as well as right, title and interest in respect of the property in question. In order to avoid any further controversies at the time of installation of the new pump, this Court feels that the Special Officer should be appointed to supervise the installation of the pump in the existing pump room.

Petitioner will be at liberty to install a new pump at his own cost at the existing pump room and for such purpose the opposite party shall open the padlock and allow the mechanic of the petitioner to install the same for the purpose of ensuring smooth supply of water to the entire premises. The learned advocates on record of both the sides or their juniors are appointed as Joint Special Officers to supervise the work of installation of the pump. The work of installation of the pump shall be carried out on Saturday (23/08/2025) between 10.00 a.m. to 5.00 p.m. and the Joint Special Officers shall supervise such

work of installation. In case the work of installation cannot be completed and the smooth supply of water to the premises cannot be ensured on one day the same shall be continued on the next day i.e. on Sunday (24/08/2025) in the presence of the Joint Special Officers.

The parties may also be present at the time of such installation work but the Joint Special Officers shall ensure that none of the parties shall create any obstruction in the work of installation of the pump. It is however, made clear that the installation of the pump shall not create any equity in favour of the petitioner.

With the aforesaid observations and directions, CO 123 of 2025 stands disposed of.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)